



Appeal Decision

Site visit made on 22 July 2020

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 04 August 2020

Appeal Ref : **APP/K2420/C/20/3247752**

122 Ashby Road, Hinckley, Leicestershire LE10 1SN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Marcus O'Sullivan against an enforcement notice issued by Hinckley & Bosworth Borough Council.
 - The enforcement notice was issued on 30 January 2020.
 - The breach of planning control as alleged in the notice is : Without planning permission, the erection of a carport ("the unauthorised development") shown cross-hatched in black on the attached plan.
 - The requirements of the notice are :
 - (i) Demolish and remove the unauthorised carport as described in paragraph 3 above and shown cross hatched in black on the attached plan.
 - (ii) Remove from the Land all resultant debris arising from compliance with the first requirement (i) of this Notice.
 - The period for compliance with the requirements is one month
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

Preliminary matter

2. A previous appeal¹ against the Council's decision to refuse planning permission for the car port was dismissed on 22 August 2019. As this appeal also relates to the car port, I have had regard to it in reaching my decision.

The appeal under ground (a) and the deemed planning application

3. The main issue is the effect of the development on the character and appearance of the appeal dwelling and the streetscene.

Reasons

4. The appeal site is in a prominent corner location in a largely residential area where houses are set back from the road. The prevailing character of the surrounding houses which are of brick construction is of frontages of gardens

¹ APP/K2420/D/19/3229307

and hard surfacing with mature trees and hedges. The car port is in the front garden of the semi-detached house along the north west boundary and it is particularly prominent when approaching the appeal site towards that boundary. The car port is made of timber, has an open design with a shallow pitched roof and extends along the majority of the north western boundary between the house and the large tree to the front of the appeal site.

5. The previous Inspector at paragraph 6 of his decision letter stated "due to its position forward of the dwelling, it is highly visible across the site frontage above fencing and planting. It is therefore prominent and intrusive within the street scene and incongruous with the area's soft landscaped character." From my site visit observations, I see no reason to disagree with that view.
6. In his appeal form, the appellant refers to landscaping plans and a planting schedule and the presence of an existing carport within 200 metres of the property not being previously considered. However, there is no landscaping plan or planting schedule before me. The appellant has provided photographs of the view along the road from the north and the south and referred to the hedge being more mature in 2 years. He has said that the development would be sympathetically screened with hedging and woodland shrubs but there are no detailed proposals before me to show how the car port could be effectively screened particularly in view of its open design and function.
7. Photographs provided by the appellant of nearby car ports are not comparable to the development. They do not project forward of the dwelling or have the same relationship to the dwelling as the development. In any event, each development or proposal has to be considered on its own merits.
8. Whilst the appellant considers that the use of timber is preferable to man-made materials, the siting, design and scale of the development is not in keeping with either appeal dwelling or the street scene. I do not consider that the appeal site being slightly lower at ground level than the nearest property mitigates the visual impact.
9. I therefore do find that the development does harm the character and appearance of the appeal dwelling and the area due to its siting, scale and design. The development does not therefore comply with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) which, amongst other things, refers to new development complementing or enhancing the surrounding area with regard to matters such as scale, layout and design.

Other Matters

10. A Tree Preservation Order was made on the 9 July 2019 at the appellant's request for the mature copper beech tree to the front of the appeal site. The appellant has referred to the development as being the only option to protecting vehicles from bird droppings. However, no information is provided as to why the development is the only option and the appellant can still apply to the Council for consent to carry out tree works. These matters do not therefore alter my findings with regard to harm.
11. With regard to whether the development is a building or a structure, Section 336 (1) of the Act sets out a list of definitions for the purposes of the Act and a "building" includes any structure or erection in any event.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

E. Griffin

INSPECTOR